

Amend 2 Cal. Code Regs. Section 18239 to read:

**§ 18239. Definition of Lobbyist.**

(a) Introduction.

(1) If an individual engages in direct communication, other than administrative testimony, with a qualifying official for the purpose of influencing legislative or administrative action on behalf of any person other than his or her employer, apply Section 82039 and subdivision (b) of this regulation to determine if the individual is a lobbyist.

(2) If an individual engages in direct communication, other than administrative testimony, with a qualifying official for the purpose of influencing legislative or administrative action only on behalf of his or her employer, apply Section 82039 and subdivision (c) of this regulation to determine if the individual is a lobbyist.

(3) Except as provided in Section 86300, if an individual is a “placement agent” as defined in Section 82047.3, he or she is a lobbyist for purposes of the Act, regardless of the definitions in subdivisions (b) through (d), below.

(4) An individual is not a lobbyist for purposes of the Act if he or she 1) solely responds to a state public retirement system’s request for information of a purely technical nature, and who does not otherwise act as a placement agent per Section 82047.3; or 2) an individual is not a placement agent per Section 82047.3 as a result of speaking with a state public retirement system while in the company of a registered placement agent who represents that individual or his or her organization.

(b) A lobbyist is an individual who receives or becomes entitled to receive \$2,000 or more in compensation in any calendar month for engaging in direct communication, other than

1 administrative testimony, with one or more qualifying officials for the purpose of influencing  
2 legislative or administrative action.

3 (c) A lobbyist is an individual who spends one-third or more of the time, in any calendar  
4 month, for which he or she receives compensation from his or her employer, engaging in direct  
5 communication, other than administrative testimony, with one or more qualifying officials for  
6 the purpose of influencing legislative or administrative action.

7 (d) Definitions.

8 (1) "Administrative testimony" means either of the following:

9 (A) Influencing or attempting to influence administrative action by acting as counsel in,  
10 appearing as a witness in, or providing written submissions, including answers to inquiries, that  
11 become part of the record of any regulatory or administrative agency proceeding:

12 (i) That is conducted as an open public hearing for which public notice is given;

13 (ii) Of which a record is created in a manner that makes possible the creation of a  
14 transcript; and

15 (iii) Where full public access is provided to the record or transcript and to all written  
16 material that is submitted as part of the record.

17 (B) Any communication made at a public hearing, public workshop, public forum, or  
18 included in the official record of any proceeding, as defined in Section 82002(b) or (c), before  
19 the California Public Utilities Commission.

20 (2) "Compensation" means any economic consideration, other than reimbursement for  
21 reasonable travel expenses, i.e., expenses for transportation plus a reasonable sum for food and  
22 lodging.

1 (3) "Direct communication" means appearing as a witness before, talking to (either by  
2 telephone or in person), corresponding with, or answering questions or inquiries from, any  
3 qualifying official, either personally or through an agent who acts under one's direct supervision,  
4 control, or direction.

5 (A) Direct communication does not include any request for or provision of purely  
6 technical data or analysis to an administrative agency by a person who does not otherwise  
7 engage in direct communication for the purpose of influencing legislative or administrative  
8 action.

9 (B) For the purpose of determining whether an individual qualifies as a lobbyist pursuant  
10 to subdivisions (b) or (c), an individual does not engage in "direct communication" when he or  
11 she meets or speaks with a qualifying official in the company of a registered lobbyist retained by  
12 the individual or individual's employer or by a bona fide trade association or membership  
13 organization of which the individual or individual's employer is a bona fide member.

14 (4) "Influencing legislative or administrative action" means communicating directly or  
15 taking any other action for the principal purpose of supporting, promoting, influencing,  
16 modifying, opposing, delaying, or advancing any legislative or administrative action.

17 (5) "Qualifying official" means:

18 (A) Any elected state official;

19 (B) Any legislative official;

20 (C) Any appointed, elected, or statutory member or director of any state agency;

21 (D) Any staff member of any state agency who makes direct recommendations to the  
22 persons listed in subdivision (5)(C) of this subdivision, or who has decision-making authority  
23 concerning such recommendations.

- 1 Note: Authority cited: Section 83112, Government Code. Reference: Section 82039,
- 2 Government Code.